

**CHIEF JUSTICE ROBERTS ON LAW PROFESSORS:  
“HE HATE ME”<sup>1</sup>**

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By all accounts, Chief Justice John G. Roberts, Jr. is a genial fellow, pleasant and self-deprecating. Convinced that public divisions do the Supreme Court very little good, he has reportedly chosen to use these personal qualities to heighten collegiality among the justices, with a repeatedly stated goal of fewer dissents and concurrences and hence more unanimous opinions.<sup>3</sup> A few years into his tenure as chief justice, he seems to have been more successful in this pursuit than many would have thought possible.<sup>4</sup> Few such campaigns can do without a scapegoat, and Chief Justice Roberts seems to have chosen his, a group to which he turns a less pleasant, less genial face, a group he is all too willing to deprecate: law professors. Both in his public statements about how justices should behave, and in one of his Court’s unanimous decisions, *Rumsfeld v. FAIR*,<sup>5</sup> Roberts has gone out of his way to pillory law professors, to set them up as objects of scorn and ridicule.

Whether this animosity is merely convenient, or the

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<sup>1</sup> Thanks go to my colleagues Mike Allen and Ellen Podgor for helpful comments.

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<sup>3</sup> See generally Jeffrey Rosen, *Roberts’s Rules*, ATLANTIC, Jan.-Feb. 2007, at 104, available at <http://www.theatlantic.com/doc/200701/john-roberts>; Douglas Kmiec, *Assessing Chief Justice John Roberts at Mid-Term: Why He Deserves Kudos for His Ability to Lead the Supreme Court to Speak in One Constitutional Voice*, Feb. 19, 2007, [http://writ.news.findlaw.com/commentary/20070219\\_kmiec.html](http://writ.news.findlaw.com/commentary/20070219_kmiec.html).<sup>4</sup> See Kmiec, *supra* note 3. But cf. Linda Greenhouse, *As to the Direction of the Roberts Court: The Jury Is Still Out*, N.Y. TIMES, Mar. 7, 2007, at A15, available at <http://www.nytimes.com/2007/03/07/washington/07scotus.html> (specifically disagreeing with Kmiec).

<sup>5</sup> *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.* (FAIR), 547 U.S. 47 (2006).

psychological result of deep-seated attitudes, one can only speculate. But the animosity is there, just below the handsome smile.

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In July 2006 Chief Justice Roberts gave a wide-ranging interview to Jeffrey Rosen, legal affairs editor of *The New Republic* and author of *The Most Democratic Branch: How the Courts Serve America*,<sup>6</sup> which resulted in an article in the January/February 2007 issue of *The Atlantic*.<sup>7</sup> During the interview Roberts spoke of the qualities needed to be a successful chief justice, and more generally, a good judge. In both cases, a shorthand version was to try not to be like a law professor.

According to Rosen, “Some of the least successful chief justices, Roberts suggested, had faltered because they misunderstood the job, approaching it as law professors rather than as leaders of a collegial Court.”<sup>8</sup> Harlan Fiske Stone, dean at Columbia’s law school before becoming chief justice, was Robert’s prime example.

Stone “was a failure as chief, because of his misperception of what a chief justice is supposed to be,” Roberts said, gesturing to the justices’ private conference room through an open door of his office. “It’s his desk out there that is separate from the conference table, and he...sat at his desk, and the others were at the table, and he almost called on them and critiqued their performances. They hated that,” Roberts laughed. “As a result, he was a failure as a chief justice.”<sup>9</sup>

Roberts’ contrast to Stone, and his model chief justice, is John Marshall. When asked about Marshall’s nemesis Thomas Jefferson, Roberts gave a grudging answer, that tellingly finds fault with Jefferson’s “academic” manner:

“Jefferson certainly did not have the common touch,” he emphasized. “To some extent, maybe affected, and

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<sup>6</sup> JEFFREY ROSEN, *THE MOST DEMOCRATIC BRANCH: HOW THE COURTS SERVE AMERICA* (2006).

<sup>7</sup> Rosen, *supra* note 3.

<sup>8</sup> *Id.* at 105.

<sup>9</sup> *Id.*

perhaps I'm being unfair to Jefferson but [he had] more of almost like a philosophe's attachment to the ideas." Roberts shook his head. "When you look at [Jefferson] side by side with Marshall, Marshall comes across as a more substantial character, certainly more likable. Yes, I think they'd both invite you to share their table and pour you a drink, but you kind of think you'd have a very academic discussion with Jefferson, and you'd have a good time with Marshall."<sup>10</sup>

The Chief Justice elaborated that "Jefferson . . . had what Marshall might regard as a somewhat precious attachment to ideas for the sake of ideas."<sup>11</sup> So Roberts finds Marshall superior because he was less interested in ideas, less of a philosopher, and Stone inferior because he was too much the academic martinet, treating his colleagues like stumbling law students. Regardless of the merits of Roberts' contentions regarding leadership in the nation's highest court,<sup>12</sup> these attitudes seem to disclose a settled dislike both for the interests and for the habits of academics, especially law professors.

The same dislike emerges when Rosen and Roberts discussed what the current climate requires of Supreme Court justices. With surprising candor, the Chief Justice disclosed that he is "frustrated . . . by the degree to which some of his colleagues were acting more like law professors than members of a collegial Court"<sup>13</sup>:

"A justice is not like a law professor, who might say, 'This is my theory . . . and this is what I am going to be faithful to and consistent with,' and in twenty years will look back and say, 'I had a consistent theory of the First Amendment as applied to a particular area,'" he explained. Instead of nine justices moving in nine separate directions, Roberts said, "it would be good to have a commitment on the part of the Court to acting as a Court, rather than being more concerned about the

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<sup>10</sup> *Id.* at 106.

<sup>11</sup> *Id.*

<sup>12</sup> In reviewing the four-part PBS documentary "The Supreme Court," one critic finds Chief Justice Roberts' similar comments on Marshall "too wide-eyed, earnest, and optimistic about the work of the Court in promoting the rule of law." Ethan Leib, *PBS's "The Supreme Court": A Conventional View of the Cathedral*, Feb. 6, 2007, [http://writ.lp.findlaw.com/commentary/20070206\\_leib.html](http://writ.lp.findlaw.com/commentary/20070206_leib.html).

<sup>13</sup> Rosen, *supra* note 3, at 105.

consistency and coherency of an individual judicial record.”<sup>14</sup>

Thus from Roberts’ perspective, all the justices should scorn the example of the law professor independently forging a consistent theory of law. “I think judicial temperament is a willingness to step back from your own committed views of the correct jurisprudential approach and evaluate those views in terms of your role as a judge,” he said. ‘It’s the difference between being a judge and being a law professor.’”<sup>15</sup>

Roberts may be correct that in times of political polarization, Supreme Court justices need (in Rosen’s paraphrase) “to suppress his or her ideological agenda in the interest of achieving consensus and stability.”<sup>16</sup> But whether the Chief Justice is correct or mistaken, it is quite revealing that time and again his model for the wrong approach is the law professor.

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Such an antipathy is bound eventually to surface in a judge’s work, and for Roberts that moment came in his opinion in *Rumsfeld v. FAIR*,<sup>17</sup> which upheld the constitutionality of the Solomon Amendment, Congress’ conditioning of a university’s receipt of federal funds on allowing military recruiters full access to the university’s campus.<sup>18</sup> Because the military’s “don’t ask, don’t tell” policy discriminates against gays and lesbians, many universities – in particular, many law schools – sought to deny access to military recruiters, thus arguably running afoul of the Solomon Amendment. The Forum for Academic and Institutional Rights, Inc. (FAIR), composed of thirty-six law schools and law faculties,<sup>19</sup> sued in federal court for injunctive relief against application of the Solomon Amendment to them, claiming a number of First Amendment

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<sup>14</sup> *Id.* at 106.

<sup>15</sup> *Id.* at 113. *See also* Kmiec, *supra* note 3 (“Roberts is fond of contrasting his Court with the Constitutional Courts of Europe, which are often populated by politicians and professors using these venues to press pet ideas.”).

<sup>16</sup> Rosen, *supra* note 3, at 113.

<sup>17</sup> *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U.S. 47 (2006).

<sup>18</sup> *See* 10 U.S.C. § 983 (2000 & Supp. IV 2004).

<sup>19</sup> *See* SolomonResponse.Org, Forum for Academic and Institutional Rights, <http://www.law.georgetown.edu/solomon/joinFAIR.html> (last visited Apr. 14, 2007).

violations. The district court denied relief, but a divided panel of the Third Circuit reversed, and the Supreme Court granted certiorari. In March 2006 Chief Justice Roberts wrote for a unanimous Court (Justice Alito, only very recently confirmed, did not participate), ruling for the government. To a considerable extent, Roberts' opinion matches his professed goal of using unanimity as, in the words of his former colleague in the Reagan Administration Douglas Kmiec, "a proxy for careful, precise resolution" of "actual disputes and divergences among the lower courts without pre-judging issues that warrant further briefing and consideration."<sup>20</sup> The opinion calmly parses the law regarding both freedom of expression and freedom of association, coming to some controversial but at least comprehensible conclusions.<sup>21</sup> The surprising element in the Roberts' decision is the string of zingers<sup>22</sup> he laces into his otherwise restrained analysis,<sup>23</sup> all of them directed at the legal academy.

As a preliminary to these stinging comments, Roberts broadens the scope of his subsequent fire in his opening paragraph, by focusing not just on those law schools associated with FAIR, but referring to legal education in general. The opinion begins, "When law schools began restricting the access of military recruiters to their students because of disagreement with the Government's policy on homosexuals in the military"<sup>24</sup> – implying unanimity, even though many law schools chose not to do so. The same paragraph continues this broadbrush technique with the clause, "the law schools responded [to the Solomon Amendment] by suing,"<sup>25</sup> even though the membership of FAIR includes only a small proportion of the two-hundred-plus American law schools, and the lawsuit notably did not involve the Association of American Law Schools, whose

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<sup>20</sup> Kmiec, *supra* note 3.

<sup>21</sup> For generally negative assessments of the opinion, see Dale Carpenter, *Unanimously Wrong*, 2006 CATO SUP. CT. REV. 217 (2006); Caitlin Daniel-McCarter, Comment, *Homophobia Through the First Amendment: A Critique of FAIR v. Rumsfeld*, 10 N.Y. CITY L. REV. 199 (2006); Leading Case, *Freedom of Expressive Association – Campus Access for Military Recruiters*, 120 HARV. L. REV. 253 (2006).

<sup>22</sup> Dale Carpenter speaks of "an opinion that treats the [law schools'] claims almost with contempt." Carpenter, *supra* note 21, at 234.

<sup>23</sup> The combination of the appearance of restraint with sharp-elbowed comments differentiates Roberts' approach from the more frontal attacks frequently launched by Justice Scalia. See *infra* note 49 and accompanying text. But that difference may make Roberts' putdowns more effective.

<sup>24</sup> *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U.S. 47, 51 (2006).

<sup>25</sup> *Id.*

accreditation standard prohibiting discrimination on the basis of sexual orientation, by recruiters as well as by universities, had initially triggered the Solomon Amendment.<sup>26</sup> So from the very outset of his opinion, the Chief Justice makes it clear that he considers legal education as an institution responsible for this lawsuit. He then proceeds to find nothing of merit in the suit, which allows him to occasionally damn the law schools for not knowing better.

But before proceeding to the lawsuit's contentions, Roberts detours briefly to consider a resolution of the case proposed in one of the multitude of amicus briefs filed in the case, an artful construction of the Solomon Amendment that would have allowed FAIR's members to continue barring the military without ruling on their constitutional claims. Roberts sounds the death knell for this argument, however, by introductorily mentioning that it has been forwarded by "[c]ertain law professors."<sup>27</sup> Given this provenance, it is no surprise that the Chief Justice finds this interpretation inconsistent with both the language and the history of the Solomon Amendment. Considering that neither party to the lawsuit accepted this amicus brief's reading of the statute, one can only guess that Roberts lavished on it seven paragraphs – nearly a thousand words – as yet another way of discrediting legal educators.<sup>28</sup>

After noting that "judicial deference . . . is at its apogee' when Congress legislates under its authority to raise and support armies,"<sup>29</sup> Chief Justice Roberts turns to FAIR's constitutional arguments, beginning with the contention that being forced to assist the military in its on-campus recruitment is government-required speech. Roberts starts his analysis with the textbook cases in this area, *West Virginia State Board of Education v. Barnette*<sup>30</sup> and *Wooley v. Maynard*,<sup>31</sup> which respectively forbid requiring public school students to recite the Pledge of Allegiance and requiring motorists to display a state-approved motto on their vehicle license plates. He

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<sup>26</sup> See SolomonResponse.Org, Equality & Legal Education, <http://www.law.georgetown.edu/solomon/commitment.html> (last visited Apr. 14, 2007).

<sup>27</sup> *FAIR*, 547 U.S. at 55.

<sup>28</sup> Judge Richard Posner carries forward this attack in Richard A. Posner, *A Note on Rumsfeld v. FAIR and the Legal Academy*, 2006 SUP. CT. REV. 47, 50, 52 (2007): The brief's argument "bordered on the absurd" and "raises a question of academic integrity."

<sup>29</sup> *FAIR*, 547 U.S. at 58.

<sup>30</sup> *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943).

<sup>31</sup> *Wooley v. Maynard*, 430 U.S. 705 (1977).

rather quickly distinguishes these cases, concluding, “compelling a law school that sends scheduling e-mails for other recruiters to send one for a military recruiter is simply not the same as forcing a student to pledge allegiance, or forcing a Jehovah’s Witness to display the motto, ‘Live Free or Die.’”<sup>32</sup>

Roberts’ commentary on this argument might have ended there, but he adds as a concluding kicker, “and it trivializes the freedom protected in *Barnette* and *Wooley* to suggest that it is.”<sup>33</sup> The implication of this addition is that FAIR’s argument is an insult to the Constitution, which shows the intellectual (or perhaps ethical) bankruptcy of the law school plaintiffs.<sup>34</sup> Opinions of the Supreme Court rarely vilify a party in this manner – simply for making an argument – but plainly law schools and their professors are fair game for such treatment.

FAIR’s next argument was that the Solomon Amendment forced its member schools and faculties to host a speaker it did not approve; with some irony, the plaintiffs cited in support *Hurley v. Irish-American Gay, Lesbian & Bisexual Group of Boston*,<sup>35</sup> which held that a state antidiscrimination law could not constitutionally require parade organizers to accept a group of gay-rights marchers. In rejecting any analogy to *Hurley*, the Chief Justice reasoned that the law schools could vocally condemn the military recruiters, so the free expression rights of FAIR’s members were not limited, nor was there any significant chance that others might misread the military’s presence on campus as a law school endorsement of the military’s discriminatory policies.<sup>36</sup>

Once again, though, Roberts closes his analysis with a bland summary – “nothing about recruiting suggests that law schools agree with any speech by recruiters, and nothing in the Solomon Amendment restricts what the law schools may say about the military’s policies.”<sup>37</sup> – followed by a zinger, this time one of deadpan

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<sup>32</sup> *FAIR*, 547 U.S. at 62.

<sup>33</sup> *Id.*

<sup>34</sup> Judge Posner’s comment on *Rumsfeld v. FAIR* follows the Chief Justice’s lead, directing withering criticism at another amicus brief filed on behalf of professors at one law school, see Posner, *supra* note 28, at 53-57 (calling the academics who signed the brief “sheeplike”), and then broadening his criticism first to “elite law school faculties” and finally to “the professoriat.” *Id.* at 57.

<sup>35</sup> *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston*, 515 U.S. 557 (1995).

<sup>36</sup> See *FAIR*, 547 U.S. at 64-65.

<sup>37</sup> *Id.* at 65.

sarcasm: “we have held that high school students can appreciate the difference between speech a school sponsors and speech the school permits because legally required to do so . . . . Surely students have not lost that ability by the time they get to law school.”<sup>38</sup> The conclusion suggested by such sarcasm is that law professors who so misjudge both their students and the state of the law must be peawits indeed.

The next section of *Rumsfeld v. FAIR* deals with the contention that the Solomon Amendment forces the plaintiff law schools into expressive conduct in violation of the First Amendment. In this portion of the opinion, Chief Justice Roberts gives the law professors a pass, focusing instead on the Third Circuit, “disagree[ing] with the Court of Appeals’ reasoning and result.”<sup>39</sup> But as the opinion of the Court turns to FAIR’s argument regarding freedom of association and then rolls on to its conclusion, the legal professoriate comes back into Roberts’ sights.

Arguing again with considerable irony, FAIR based its freedom of association contentions on *Boy Scouts of America v. Dale*,<sup>40</sup> which held that a state antidiscrimination law forcing the Boy Scouts to retain a gay scoutmaster violated its associational rights. Roberts again ignores the irony and distinguishes *Dale* because allowing recruiters on campus is not the same as accepting members you do not want.<sup>41</sup> The plaintiffs assert otherwise, but the Chief Justice treats their claims as petulant: “the law schools *say* that allowing military recruiters equal access impairs their own expression by requiring them to associate with recruiters, but . . . a speaker cannot ‘erect a shield’ against laws requiring access ‘simply by asserting’ that mere association ‘would impair its message.’”<sup>42</sup> There is a hint of the scolding schoolmarm in this passage, that saying something is so

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<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 67.

<sup>40</sup> *Boy Scouts of Am. v. Dale*, 530 U.S. 640 (2000).

<sup>41</sup> Some commentators have noted that by emphasizing membership, the opinion retreats from some of the broader implications of *Dale*. See Carpenter, *supra* note 21, at 251; Leading Case, *supra* note 21, at 258-59; Emily S. Wilbanks, Case Comment, *Constitutional Law: Speaking with Your Mouth Shut? Exploring the Outer Limits of First Amendment Protection in the Context of Military Recruiting on Law School Campuses*, 59 FLA. L. REV. 437, 450 (2007). This retreat might explain the unanimity of the Court’s decision in *Rumsfeld v. FAIR*. *Dale*’s four dissenters – Justices Stevens, Souter, Ginsburg, and Breyer – might have been willing to swallow the rhetorical excesses of the Chief Justice’s opinion in exchange for limiting a precedent with which they so strongly disagreed.

<sup>42</sup> *FAIR*, 547 U.S. at 69.

cannot make it so, with the law schools placed in the position of the student plaintively crying, “but teacher, it is so.”<sup>43</sup>

The putdown continues in the opinion’s summary, which begins, “in this case, FAIR has attempted to stretch a number of First Amendment doctrines well beyond the sort of activities these doctrines protect.”<sup>44</sup> This sentence revives the imputation that FAIR’s law school and law faculty members were not just unpersuasive in their arguments but at fault for even making them.<sup>45</sup> At least this slur on the plaintiffs’ professionalism was limited to them. But the next sentence expands the scope of the attack to all of legal education: “the law schools” – not just FAIR – “object to having to treat military recruiters like other recruiters, but that regulation of conduct does not violate the First Amendment.”<sup>46</sup> This smear continues in the paragraph’s third and final sentence, which summarizes most of the opinion’s anti-professor barbs:

To the extent that the Solomon Amendment incidentally affects expression, the law schools’ effort to cast themselves as just like the schoolchildren in *Barnette*, the parade organizers in *Hurley*, and the Boy Scouts in *Dale* plainly overstates the expressive nature of their activity and the impact of the Solomon Amendment on it, while exaggerating the reach of our First Amendment precedents.<sup>47</sup>

Thus all law schools are portrayed as ludicrous – foolishly analogizing themselves to schoolchildren or paraders or Boy Scouts and pompously overvaluing their own speech while misrepresenting the rulings of the Supreme Court of the United States.<sup>48</sup>

As before, Roberts segues between acerbic criticism and bland summarization, sliding from the paragraph just described into a

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<sup>43</sup> See Carpenter, *supra* note 21, at 252-53 (here “the Court almost mocks [the law schools’] claims”).

<sup>44</sup> FAIR, 547 U.S. at 70.

<sup>45</sup> For Judge Posner’s elaboration of this implication, see *supra* notes 28 and 34.

<sup>46</sup> FAIR, 547 U.S. at 70.

<sup>47</sup> *Id.*

<sup>48</sup> See *supra* notes 28 and 34. Judge Posner expands on the Chief Justice’s insinuations: “When you inhabit a cozy burrow of like thinkers, your ideas are not challenged and they grow flabby. They become unexamined habits of mind – articles of faith that when finally challenged provoke anger rather than reasoned response because the ability to reason about them has atrophied.” Posner, *supra* note 28, at 57.

two-sentence final paragraph that neutrally encapsulates the Court's legal holdings. This final paragraph was all the conclusion the opinion needed and so points up the gratuitous nature of the language that immediately precedes it. That language was necessary, not to summarize the Court's legal conclusions, but to reiterate the Chief Justice's marked antipathy toward law professors.

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From where does this antipathy come? One possibility, of course, is that its inclusion was necessary to appease some other member of the Court, as a condition for obtaining his or her signature. It is easy to imagine Justice Scalia, for instance – who seems to dislike law professors almost as much as he dislikes judges – bargaining for inclusion of the sort of scornful comments for which his opinions have become so (in)famous.<sup>49</sup> But the Chief Justice's interview statements suggest that his dislike of law professors has a more personal source.

Roberts' attitude recalls Richard Weisberg's discussion of *ressentiment* in his classic *The Failure of the Word: The Protagonist as Lawyer in Modern Fiction*.<sup>50</sup> Derived from a close reading of Nietzsche, Weisberg's presentation of ressentient man posits an initial insult that provokes a desire for revenge,<sup>51</sup> which morphs into "perpetual rancor"<sup>52</sup> because of "the verbalizer's 'legalistic proclivity.'"<sup>53</sup> Weisberg elaborates:

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<sup>49</sup> See David Von Drehle, *Inside the Incredibly Shrinking Role of the Supreme Court. And Why John Roberts is O.K. with That*, TIME, Oct. 22, 2007, at 40, 44, 47, available at

<http://www.time.com/time/magazine/article/0,9171,1670489,00.html>

(mentioning Scalia's "stinging, highly quotable, and sometimes quite personal" opinions, "his operatic style," "aggrieved wailings[,] and self-righteous asides"); see generally Richard Delgado & Jean Stefancic, *Scorn*, 35 WM. & MARY L. REV. 1061 (1994).

<sup>50</sup> RICHARD H. WEISBERG, *THE FAILURE OF THE WORD: THE PROTAGONIST AS LAWYER IN MODERN FICTION* (Hardback ed. 1984) (hereinafter Weisberg Hardback); RICHARD H. WEISBERG, *THE FAILURE OF THE WORD: THE PROTAGONIST AS LAWYER IN MODERN FICTION* (Paperback ed. 1984) (hereinafter Weisberg Paperback).

<sup>51</sup> Weisberg Hardback, *supra* note 50, at x; Weisberg Paperback, *supra* note 50, at ix.

<sup>52</sup> Weisberg Hardback, *supra* note 50, at xii; Weisberg Paperback, *supra* note 50, at xi.

<sup>53</sup> Weisberg Hardback, *supra* note 50, at 4; Weisberg Paperback, *supra* note 50, at 4.

Ressentiment, unlike hatred, which can be resolved in a single decision or gesture, is a full-blown intellectual malaise, inclined to take institutional and formal, rather than personal and spontaneous, revenge. It emerges only subtly and gradually from an unresolved sense of insult. The “insult” – real, imagined, or provoked by the desire to possess an inaccessible object or trait – grates on the intellect as much as on the emotions.<sup>54</sup>

Chief Justice Roberts’ dislike of law professors may reflect resentment. His “revenge” is certainly “institutional and formal,” it has “emerge[d] only subtly and gradually,” and it is far more “intellect[ual]” than “emotion[al].”

And if there was an initial insult, it might have come during his legal education. One straw in the wind is that the “[c]ertain law professors” whose amicus brief in *Rumsfeld v. FAIR* gets such disproportionately negative attention from Chief Justice Roberts are all from Harvard, his alma mater.<sup>55</sup> Comments from acquaintances suggest that during Roberts’ years in Cambridge (both undergraduate and law school), even mild-mannered conservatives like he might have felt out of step with both classmates and professors.<sup>56</sup> Or it may be that after his years as an appellate advocate, ready and able to take either side of an argument,<sup>57</sup> he may envy and resent the law professor’s trait of passionate commitment to only one side of an argument.

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<sup>54</sup> Weisberg Hardback, *supra* note 50, at 9; Weisberg Paperback, *supra* note 50, at 9.

<sup>55</sup> See Brief of Professors William Alford et al. as Amici Curiae in Support of Respondents, *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U.S. 47 (2006) (No. 04-1152), 2005 WL 2367595, at \*1. Since becoming Chief Justice, Roberts has offered some muted criticism of legal education. See Robert Barnes, *Chief Justice Counsels Humility*, WASH. POST, Feb. 6, 2007, at A15 (recommending more rhetoric training in law school).

<sup>56</sup> See generally Janny Scott, *Roberts’ Roots as a Conservative*, N.Y. TIMES, Aug. 21, 2005, §1, at 1, available at, 2005 WLNR 13154411.

<sup>57</sup> See generally Michael Grunwald, *Roberts Cultivated an Audience with Justices for Years*, WASH. POST, Sept. 11, 2005, at A01, available at 2005 WL 14275108 (entitled *Roberts Among Elite Field of High Court Specialists*); Tony Mauro, *The Lawyer’s Lawyer (Legal Practitioner Serving as Chief Justice)*, LEGAL TIMES, Sept. 19, 2005, available at <http://find.galegroup.com/itx/start.do?prodId=LT> (follow “Advanced Search”; select “Document Number(rn)”; enter doc. num. “A136782798”); Charles Peters, *The Chief Justice as Hired Gun*, WASH. MONTHLY, Dec. 1, 2005, at 5(2), available at 2005 WLNR 20503890.

But this is all rank guesswork. The only solid fact we have to go on is that Chief Justice John G. Roberts, Jr., has a very low opinion of law professors.